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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CR No.8122 of 2018 (O&M)
Date of Decision: 30.11.2018**

Puneet Garg and another

Petitioners

Versus

Surinder Kumar and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Paramjit Singh Jammu, Advocate
for the petitioners.

AVNEESH JHINGAN, J (Oral):

The present civil revision petition has been filed by the petitioners being aggrieved of the order dated 29.10.2018 passed by Additional Civil Judge (Sr. Division), Phul [hereinafter referred to as 'trial Court'] dismissing the application under Order VI Rule 17 of the Code of Civil Procedure, 1908 [for brevity 'CPC'] and application under Order I Rule 10 of CPC seeking amendment of plaint and impleading Amar Nath s/o Jagan Nath r/o Rampura Phul, District Bathinda.

The petitioners filed a suit for possession by way of redemption of shop forming part of building bearing MC No.B-21/123 situated at Rampura Phul, District Bathinda on payment of mortgage

amount of ₹20,000/-, to defendant No.1 Surinder Kumar. Pleadings were complete. Later on, defendants No.2 and 3 filed an application for amending their written statement. In the amended written statement, it was specifically mentioned in paragraph 2 that Surinder Kumar executed the mortgage deed dated 29.06.1992 in favour of Amar Nath. Amendment was allowed vide order dated 06.01.2017.

It is pertinent to note that application for amendment was filed on 19.07.2016. When the suit was at the stage where the plaintiffs had concluded their evidence and defendants had already examined atleast five witnesses, the application was moved for amendment of the plaint and for impleading Amar Nath as a party. The said application was dismissed on 29.10.2018. Aggrieved of the said order, the present civil revision petition has been filed.

Learned counsel for the petitioner argued that petitioner gained knowledge of fact that Surinder Kumar executed mortgage in favour of Amar Nath only when Amar Nath appeared as DW2 and filed his affidavit.

The contention raised by learned counsel for the petitioners lacks merit. From the perusal of the amended written statement filed by defendants No.2 and 3, it is evident that the fact came to the knowledge of the petitioners way back in July, 2016. Thereafter, the application for amendment of written statement was allowed on 06.01.2017. Now, in October 2018, the application was moved for amendment of plaint and for impleading Amar Nath as

defendant, i.e., after a period of for more than two years from gaining the knowledge.

No explanation is coming forth for the said delay. No interference is called for in the impugned order.

The civil revision petition is dismissed.

[AVNEESH JHINGAN]
JUDGE

November 30, 2018

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| 1. Whether speaking/ reasoned | : | Yes/ No |
| 2. Whether reportable | : | Yes/ No |